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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/043,754	01/10/2002	Hien Vu Nguyen	PPC-0821	7276
27777	7590	04/20/2004	EXAMINER	
PHILIP S. JOHNSON JOHNSON & JOHNSON ONE JOHNSON & JOHNSON PLAZA NEW BRUNSWICK, NJ 08933-7003			TRUONG, LINH T	
			ART UNIT	PAPER NUMBER
			3761	

DATE MAILED: 04/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/043,754

Applicant(s)

NGUYEN ET AL.

Examiner

Linh Truong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>15 April 2004</u> . | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 6-11, and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cole et al. (Cole) WO 99/32061 (IDS) in view of Bahia et al. (Bahia) '5,731,083 (IDS).

For claims 1-2, 6-11, and 15-18, Cole teaches a tampon having an inner absorbent structure 14 comprising of natural (can be non-cellulosic or cellulosic) or synthetic fibers (can be non-cellulosic or cellulosic) (p.14, lines 3-8), with at least one outer cover 22 comprising of cellulosic fibers or polymeric fibers (p. 7, lines 1-26) bonded to the absorbent structure. Cole, however, does not teach that the outer layer have modified cellulosic fibers comprising of rayon with carboxyalkyl substituted regions with a degree substitution of about 0.2 to about 0.5 CMC groups per glucose unit. Bahia teaches caboxymethyl cellulose fiber including rayon with carboxyalkyl substituted regions with a degree substitution of about 0.2 to about 0.5 CMC groups per glucose unit for use in absorbent products such as tampons for a cellulose fiber of greater absorbency and strength that is free from stickiness (abstract, col. 1, lines 8-11, 44-47, and 48-60 and col. 6, line 63-col.7, line 28). Therefore, it is obvious to one with ordinary skill in the art at the time the invention was made to provide the cover layer of

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Cole with modified cellulosic fibers with carboxyalkyl substituted regions with a degree substitution of about 0.2 to about 0.5 CMC groups per glucose unit for greater absorbency, strength, and pain-free removal. On the issue of Centrifuge Retention rates, the Examiner points out that the combined inventions of Cole and Bahia inherently have the claimed Centrifuge Retention rates because Applicant states in the specification lists some of the same materials (i.e. cellulosic fibers, natural fibers, synthetic fibers, foam, and modified cellulosic fibers with carboxyalkyl substituted regions) that are disclosed by Cole and Bahia.

Claims 3-5 and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cole et al. (Cole) WO 99/32061 (IDS) in view of Bahia et al. (Bahia) '5,731,083 (IDS) and in further view of DeGroot '5,366,450.

For claims 3-5 and 12-14, in addition to the above rejection, Cole teaches an outer layer comprising of synthetic or natural cellulosic fiber or polymeric fibers that include polyolefin or polyester fibers but do not disclose that the fibers are mixed and at what percentages they are present. It is well known in the art that thermoplastic fibers (polyesters and polyolefins) have hydrophobic properties that prevents leakage and that cellulosic fibers are hydrophilic, and therefore, absorbent; these two properties are ideal for tampons. DeGroot teaches a tampon with an absorbent core and an outer layer that comprises 10-80% cellulosic fibers and 90-20% thermoplastic fibers such as polyester (col. 2, lines 6-21). Therefore, it is obvious to one with ordinary skill in the art at the time the invention was made to provide the cover layer of Cole and Bahia with 10-80%

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cellulosic fibers and 90-20% thermoplastic fibers such as polyester for absorbing fluids and preventing their leakage simultaneously.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent 3,723,413 is drawn to carboxyalkylated cellulosic materials having an average substitution degree greater than 0.35. U.S. Patent 3,340,874 is drawn to a tampon with a cellulosic outer layer. U.S. Patent 4,661,101 is drawn to a tampon with a modified cellulosic outer layer. And U.S. Patent 6,465,713 is drawn to a tampon with an apertured polymeric outer layer.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Linh Truong whose telephone number is 703-605-4974. The examiner can normally be reached on Mondays to Fridays from 8:30am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on 703-305-1025. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Linh Truong

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L.T.

  
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